

**ASSEMBLY BILL**

**No. 1030**

---

**Introduced by Assembly Member Achadjian**

February 18, 2011

---

An act to add Article 3.5 (commencing with Section 30133) to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1030, as introduced, Achadjian. Cigarette and tobacco taxes: violation: penalties.

The California Cigarette and Tobacco Products Licensing Act of 2003 provides for the licensure, by the State Board of Equalization, of manufacturers, distributors, wholesalers, importers, and retailers of cigarette or tobacco products that are engaged in business in California and prohibits retailers, manufacturers, distributors, and wholesalers from distributing or selling those cigarette and tobacco products unless they are in compliance with those licensure requirements.

The Cigarette and Tobacco Products Tax Law imposes a tax on the distribution of tobacco products and on the distribution of cigarettes, which are paid through the use of stamps or meter impressions that are required to be affixed to each package of cigarettes sold. The Cigarette and Tobacco Products Tax Law requires that certain cigarette and tobacco products be forfeited to the state under specified circumstances, upon seizure by the State Board of Equalization.

This bill would subject a person who fails to pay a tax liability in violation of the Cigarette and Tobacco Products Tax Law to suspension of any distributor's license and seizure of any assets related to tobacco distribution. The bill would require the board to hold a hearing on the

suspension or seizure and, upon confirmation of the violation, would allow the board to revoke the license and sell the assets, proceeds of which would be deposited into the fund to which a cigarette or tobacco products tax liability is owed, to be available upon appropriation by the Legislature and the General Fund, as specified.

This bill would provide that the provisions of this bill are severable.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 3.5 (commencing with Section 30133) is  
2 added to Chapter 2 of Part 13 of Division 2 of the Revenue and  
3 Taxation Code, to read:

4  
5 Article 3.5. License Suspension and Asset Seizure  
6

7 30133. (a) A person who fails to pay a tax liability in violation  
8 of this chapter shall be subject to suspension of any distributor's  
9 license issued under this part and to seizure of any assets of the  
10 person related to distribution of cigarettes or tobacco products.

11 (b) Within 30 days of a license suspension or seizure of assets  
12 pursuant to subdivision (a), the board shall hold a hearing to  
13 confirm or dismiss the violation of this chapter and the seizure or  
14 forfeiture.

15 (c) If a willful failure to pay taxes in violation of this chapter is  
16 confirmed pursuant to subdivision (b), the board may sell the assets  
17 seized and may revoke the license of the person.

18 (d) Except as otherwise specified in this article, seizure and sale  
19 of property pursuant to this article shall be in the manner prescribed  
20 for the collection of a delinquent monthly tax.

21 (e) Proceeds from any asset seizure and sale pursuant to this  
22 article shall be deposited as follows in the following priority:

23 (1) The amount of unpaid tax liability owed under this part by  
24 the person under this chapter shall be deposited into the fund to  
25 which it is owed. Notwithstanding any other provision of law,  
26 monies deposited pursuant to this paragraph shall not be  
27 continuously appropriated, and shall only be available upon  
28 appropriation by the Legislature.

1     (2) Any remaining moneys shall be deposited into the General  
2 Fund.

3     30134. The board shall adopt regulations to implement this  
4 article.

5     SEC. 2. The provisions of this act are severable. If any  
6 provision of this act or its application is held invalid, that invalidity  
7 does not affect other provisions of applications that can be given  
8 effect without the invalid provision or application.

O